



## EXECUTIVE DEPARTMENT

EXECUTIVE ORDER NO. KBB 2005 - 8

### *STATE EMPLOYEE DRUG TESTING POLICY*

- WHEREAS,** the Office of the Governor and the state of Louisiana have a long-standing commitment to working toward a drug-free Louisiana;
- WHEREAS,** the employees of the state of Louisiana are among the state's most valuable resources, and the physical and mental well-being of these employees is necessary for them to properly carry out their responsibilities;
- WHEREAS,** substance abuse causes serious adverse consequences to users, impacting on their productivity, health and safety, dependents, and co-workers, as well as the general public;
- WHEREAS,** to curb the use of illegal drugs by employees of the state of Louisiana, the Louisiana Legislature enacted laws which provide for the creation and implementation of drug testing programs for state employees; and
- WHEREAS,** the citizens of the state of Louisiana would best be served by a statewide policy on rules and procedures for drug testing state employees;

**NOW THEREFORE I, KATHLEEN BABINEAUX BLANCO,** Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

- SECTION 1:**
- A. All executive departments and all other agencies, boards, commissions, and entities of state government in the executive branch over which the governor has appointing authority or, as chief executive officer of the state, has general executive authority, which are not authorized by the Louisiana Constitution of 1974, as amended, or legislative act to manage and supervise their own system, (hereafter "executive agency") shall promulgate a written policy which mandates drug testing of employees, appointees, prospective employees, and prospective appointees, pursuant to R.S. 49:1001, *et seq.*, as set forth in this Order.
- B. All executive departments which operate under the authority of another statewide elected official or which are authorized by the Louisiana Constitution of 1974, as amended, or legislative act to manage and supervise its own system, (hereafter "executive agency") are requested to promulgate a written policy which mandates drug testing of employees, appointees, prospective employees, and prospective appointees pursuant to R.S. 49:1001, *et seq.*, as set forth in this Order.
- SECTION 2:**
- A. The appointing authority of each executive agency shall duly promulgate a written policy in compliance with R.S. 49:1001, *et seq.*, which *at a minimum* mandates drug testing of an employee or appointee (hereafter "employee") or a prospective employee or prospective appointee (hereafter "prospective employee") as follows:
1. When individualized, reasonable suspicion exists of an employee's drug use;
  2. Following an accident that occurs during the course and scope of an employee's employment that a) involves circumstances leading to a reasonable suspicion of the employee's drug use; b) results in a fatality; or c)

results in or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5);

3. Randomly, as a part of a monitoring program established by the executive agency to assure compliance with terms of a rehabilitation agreement;
4. Prior to hiring or appointing a prospective employee, except employees transferring from one executive agency to another without a lapse in service;
5. Prior to promoting an employee to a safety-sensitive or security-sensitive position or to a higher safety-sensitive or security-sensitive position; and
6. Randomly, for all employees in safety-sensitive or security-sensitive positions.

B. The appointing authority of each executive agency shall determine which positions within their agency, if any, are "safety-sensitive or security-sensitive positions," by considering statutory law, jurisprudence, the practices of the executive agency, and the following *non-exclusive list of examples* of safety-sensitive and/or security-sensitive positions:

1. Positions with duties that may require or authorize the safety inspection of a structure;
2. Positions with duties that may require or authorize access to a prison or an incarcerated individual;
3. Positions with duties that may require or authorize carrying a firearm;
4. Positions with duties that may allow access to controlled substances (drugs);
5. Positions with duties that may require or authorize inspecting, handling, or transporting hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5);
6. Positions with duties that may require or authorize any responsibility over power plant equipment;
7. Positions with duties that may require instructing or supervising any person to operate or maintain, or that may require or authorize operating or maintaining, any heavy equipment or machinery; and
8. Positions with duties that may require or authorize the operation or maintenance of a public vehicle, or the supervision of such an employee.

C. Prior to the appointing authority of an executive agency promulgating its drug testing policy regarding safety-sensitive and/or security-sensitive positions, the appointing authority shall consult with the Louisiana Department of Justice.

### SECTION 3:

A. No drug testing of an employee or a prospective employee shall occur in the absence of a duly promulgated written policy which is in full compliance with the provisions of R.S. 49:1001, *et seq.*

- B. Any employee drug testing program in existence on the effective date of this Order shall not be supplanted by the provisions of this Order, but shall be supplemented, where appropriate, in accordance with the provisions of this Order and R.S. 49:1001, *et seq.*

**SECTION 4:** All information, interviews, reports, statements, memoranda, and/or test results received by the executive agency through its drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

**SECTION 5:** A. Pursuant to R.S. 49:1011, an executive agency may, but is not required to, afford an employee whose drug test result is certified positive by the medical review officer, the opportunity to undergo rehabilitation without termination of employment.

- B. Pursuant to R.S. 49:1008, if a prospective employee tests positive for the presence of drugs in the initial drug screening, the positive drug test result shall be the cause of the prospective employee's elimination from consideration for employment or appointment.

**SECTION 6:** Each executive agency shall procure employee drug testing services through the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws.

**SECTION 7:** Each executive agency shall submit to the Office of the Governor, through the Commissioner of Administration, a report on its written policy and drug testing programs, describing the progress of its programs, the number of employees affected by the programs, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the programs, by December 1, 2005. Each executive agency shall annually update its report by December 1.

**SECTION 8:** All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed (or requested pursuant to Subsection 1B) to cooperate with the implementation of the provisions in this Order.

**SECTION 9:** This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.



**IN WITNESS WHEREOF**, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 18th day of March, 2005.

**/S/ Kathleen Babineaux Blanco**  
**GOVERNOR OF LOUISIANA**

**ATTEST BY**  
**THE GOVERNOR**

**/S/ Fox W. McKeithen**  
**SECRETARY OF STATE**